

**AN ORDINANCE BY
COUNCILMEMBER H. LAMAR WILLIS
AS SUBSTITUTED BY
COMMUNITY DEVELOPMENT
& HUMAN RESOURCE COMMITTEE**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF
THE CITY OF ATLANTA BY AMENDING THE DEFINITION OF
“OUTDOOR FESTIVAL” TO MAKE IT EASIER TO
UNDERSTAND, AND BY ESTABLISHING PENALTIES FOR
VIOLATION OF THE ATLANTA OUTDOOR FESTIVALS
ORDINANCE; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Atlanta (“City”) has adopted the Atlanta Outdoor Festivals Ordinance of 2003; Atlanta Code section 138-186 through section 138-209 (“Festivals Ordinance”) which regulates the issuance of permits for Outdoor Festivals; and

WHEREAS, the City established the Festivals Ordinance for a number of reasons, including conservation and allocation of the City’s personnel, natural, and infrastructure resources; determination and provision of adequate City services, including security, sanitation, and traffic control; and protection of public safety and the safety, health, and welfare of the inhabitants of the City; and

WHEREAS, the definition of “Outdoor Festival” in Section 138-187 of the Festivals Ordinance is difficult to understand; and

WHEREAS, while the definition of “Outdoor Festival” requires no substantive changes, the City should make non-substantive changes to the definition to make it easier to understand; and

WHEREAS, despite the existence of the Festivals Ordinance, some citizens conduct Outdoor Festivals without receiving a permit; and

WHEREAS, the Festivals Ordinance currently has no provisions enabling the City to recoup the costs it incurs from providing public safety, sanitation and other services for unpermitted festivals; and

WHEREAS, unpermitted Outdoor Festivals have not complied with the Code in providing a security plan and security personnel pursuant to 138-201(17); therefore, sponsors of these Outdoor Festivals cannot ensure the safety of park attendees or residents in the neighborhoods surrounding these parks; and

WHEREAS, the Festivals Ordinance provides no penalties for holding an Outdoor Festival without a permit; and

WHEREAS, in order to deter unpermitted Outdoor Festivals and to better serve the public, it is important to add provisions to the Festivals Ordinance that allow the City to recoup all costs that would have been paid by the Outdoor Festival promoter had s/he received a permit for the Outdoor Festival, and to establish penalty provisions for violation of the Festivals Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, AS FOLLOWS:

Section 1. Atlanta Code of Ordinances, section 138-187, shall be amended by striking the first sentence of the definition of "Outdoor Festival" and replacing it with the following:

"Outdoor Festival means an outdoor public celebration or gathering which:

- 1) Lasts for seven or fewer contiguous days; and
- 2) Is reasonably expected to have more than two hundred fifty (250) people gather in a public park and/or on a public street and/or on other public rights of way owned by or located in the City of Atlanta; or is reasonably expected to have more than five hundred (500) people gather on privately-owned property; and
- 3) Includes entertainment, dancing, music, dramatic productions, art exhibitions, parades, road races, the sale of merchandise, the sale of food and/or alcohol, or any combination of the foregoing; and
- 4) Requires the erection of stages, barricades, utility poles, booths, tents, or other temporary structures, or the use of parked vehicles or of permanent structures; and
- 5) Which of necessity requires for its successful execution the provision and coordination of municipal services to a degree significantly over and above that which the City routinely provides under ordinary everyday circumstances."

Section 2. A new section shall be added to the Atlanta Outdoor Festivals Ordinance of 2003, and shall read as follows:

"Sec. 138-210. Penalties.

- (a) Any person who shall conduct, sponsor, or promote an Outdoor Festival for which a Permit has not been obtained, shall be responsible for paying all costs that would have been owed had the Outdoor Festival been permitted. The Chief

of Staff, or his designee, shall issue a bill for the total amount owed, and the bill shall be paid in full within thirty days of receipt of the bill. The bill shall include:

- (1) An amount equivalent to what the person would have been assessed for the issuance of an Outdoor Festival Permit, pursuant to section 138-205 of this Article, and specifically shall be assessed an amount equivalent to the sum of the application fee, the appropriate permit fee based upon the number of persons attending the non-permitted outdoor festival, and the environmental impact fee. For purposes of determining the amount of attendees at the Outdoor Festival, such determination shall be made by the City, based upon observations of a member of the Atlanta Police Department who observed the Outdoor Festival; and
- (2) The cost of sanitation services, maintenance services, services required to remove human waste and refuse, services required to restore physical structures to their condition prior to the Outdoor Festival, and any other services required to clean-up or restore the area utilized for the Outdoor Festival to its condition prior to the Outdoor Festival, but only to the extent that these costs exceed the permit fee, as described in subsection (a)(1) of this section.
- (3) An amount equivalent to the cost of providing the number and quality of off-duty police officers and private security guards that would have been required for the event. The number and quality of required off-duty police officers and private security guards shall be determined as set forth in Section 138-203(b)(5) of this Article. The cost of hiring these officers and guards shall be determined by contacting a company licensed by the State of Georgia Board of Private Detective and Security Agencies, that employs such security officers, and gathering the cost of contracting for such officers from the company at the time of the event.

(b) Any person who shall conduct, sponsor, or promote an Outdoor Festival for which a Permit has not been obtained, as provided in this Article, shall be guilty of a misdemeanor. Upon conviction such person shall be required to work on the public streets or on public works of the City for not more than six months, and:

- (1) Pay a fine not to exceed \$1,000.00; and/or
- (2) Be imprisoned for a term not to exceed six months.

(c) Any person who shall fail to timely pay the bill described in subsection (a) of this Section shall be guilty of a misdemeanor that shall be continuous with respect to time for each day that the bill is not paid. Each day that the violation continues shall be deemed a separate offense, and upon conviction, the person shall be subjected to the penalties of section 1-8(c) of this Code of Ordinances for each offense.”

(d) The provisions of this Section 138-210 shall apply to any person who obtains a Large Gathering Reservation, pursuant to Atlanta Code section 110-75, where the event actually has more than 250 attendees and meets the requirements set forth in sections 1, 3, 4 and 5 of the definition of "Outdoor Festival"; except that the failure to obtain an Outdoor Festival Permit shall be deemed a misdemeanor only if the person obtaining the Large Gathering Reservation should have reasonably expected that the number of attendees would exceed 250 people. For events that are publicized by fliers and/or radio advertisements and/or other types of advertisements, the person obtaining the Large Gathering Reservation will automatically be deemed as having a reasonable expectation that the number of attendees would exceed 250 people.

Section 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict.

Section 4. This ordinance shall go into effect immediately upon Mayor's signature.